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an unmanageable horse, driven by another, from going on the track, instructions which ignored evidence that plaintiff was in a peril from which he could not extricate himself by loosening his hold, through danger of being trampled upon by the horse, and ignoring evidence that the train could have been stopped after discovery of plaintiff's peril, were properly refused to defendant.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 613-623; Dec. Dig. § 253.\* 7 Va.-W. Va. Enc. Dig. 723; 14 Va.-W. Va. Enc. Dig. 564; 15 Va.-W. Va. Enc. Dig. 515.]

Error to Circuit Court, Halifax County.

Action by S. G. Baptist against the Southern Railway Company. Judgment for plaintiff, and defendant brings error. Affirmed.

*William Leigh*, of Danville, for plaintiff in error.

*Booker & McKinney*, of Houston, and *Lee & Kemp*, of Lynchburg, for defendant in error.

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Ex parte SETTLE.

March 15, 1913.

[77 S. E. 496.]

**1. Statutes (§ 93\*)—General and Special Laws—Trial Justices.**—Acts 1912, c. 347, which provides for trial justices in all counties having a population greater than 300 inhabitants per square mile, is not violative of Const. 1902, § 63 (Code 1904, p. ccxxiii), prohibiting special or class legislation, though it applies only to one county; the fact that a law applies only to certain territorial districts not rendering it unconstitutional, where it applies to all parts of the state where like conditions exist.

[Ed. Note.—For other cases, see Statutes, Cent. Dig. § 102; Dec. Dig. § 93.\* 3 Va.-W. Va. Enc. Dig. 169; 14 Va.-W. Va. Enc. Dig. 231.]

**2. Evidence (§ 23\*)—Judicial Notice—Local Conditions.**—Judicial notice may be taken of the fact that by reason of the proximity of the county of Alexandria to large centers of population there is need that special provision be made whereby the law may be efficiently and promptly administered to protect its citizens from lawless elements.

[Ed. Note.—For other cases, see Evidence, Cent. Dig. §§ 29, 30; Dec. Dig. § 23.\* 8 Va.-W. Va. Enc. Dig. 633; 14 Va.-W. Va. Enc. Dig. 611; 15 Va.-W. Va. Enc. Dig. 569.]

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

**3. Constitutional Law (§ 48\*)—Presumptions as to Statutes—Constitutionality.**—Every presumption will be made in favor of the constitutionality of a statute, and every reasonable doubt resolved in favor of its validity, regardless of whether it is wise or proper, and a statute will be held void only when plainly repugnant to some constitutional provision.

[Ed. Note.—For other cases, see Constitutional Law, Cent. Dig. § 46; Dec. Dig. § 48.\* 3 Va.-W. Va. Enc. Dig. 163; 14 Va.-W. Va. Enc. Dig. 230; 15 Va.-W. Va. Enc. Dig. 194.]

**4. Statutes (§ 141\*)—Amendment—Validity.**—Acts 1912, c. 347, providing for trial justices in counties of a certain population, being an independent and original act of legislation, does not contravene Const. 1902, § 52 (Code 1904, p. ccxxi), providing that no law shall be amended except the section amended be re-enacted and published at length, even though it may repeal some existing law by implication.

[Ed. Note.—For other cases, see Statutes, Cent. Dig. §§ 48, 198, 209; Dec. Dig. § 141.\* 12 Va.-W. Va. Enc. Dig. 777; 14 Va.-W. Va. Enc. Dig. 955; 15 Va.-W. Va. Enc. Dig. 939.]

**5. Statutes (§ 159\*)—Repeal by Implication.**—While repeals by implication are not favored, yet, if there is an irreconcilable conflict between legislative acts, the most recent act must prevail.

[Ed. Note.—For other cases, see Statutes, Cent. Dig. § 229; Dec. Dig. § 159.\* 12 Va.-W. Va. Enc. Dig. 779; 14 Va.-W. Va. Enc. Dig. 955; 15 Va.-W. Va. Enc. Dig. 940.]

**6. Courts (§ 42\*)—Establishment—Validity of Statute—Trial Justices.**—Acts 1912, c. 347, providing for trial justices in counties of a certain population is not violative of Const. 1902, § 87 (Code 1904, p. ccxxxix), providing that the judiciary department shall consist of a Supreme Court of Appeals, circuit courts, city courts, "and such other courts as are hereinafter authorized," when this section is considered in connection with Const. 1902, § 108 (Code 1904, p. ccxxxvi), providing that the General Assembly shall provide for such justices of the peace as the public interest may require.

[Ed. Note.—For other cases, see Courts, Cent. Dig. §§ 163-170, 181-183; Dec. Dig. § 42.\* 3 Va.-W. Va. Enc. Dig. 699; 14 Va.-W. Va. Enc. Dig. 271.]

**7. Habeas Corpus (§ 32\*)—Matters Determined—Title to Office—Validity of Statute.**—The court had jurisdiction in habeas corpus proceedings to determine the constitutionality of a statute under which office was held by the trial justice who committed the petitioner.

[Ed. Note.—For other cases, see Habeas Corpus, Cent. Dig. § 29; Dec. Dig. § 32.\* 7 Va.-W. Va. Enc. Dig. 5.]

Upon a writ of habeas corpus procured by W. B. Settle. Writ dismissed.

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.